

MONTANA LEGISLATIVE HISTORY

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Chapter 156 19 95

Bill H 229 S _____ Original bill & history c

H. Committee on Education & Cultural Resources S. Committee on Education & Cultural Resources

Hearing Date(s) Jan 20 ✓ c

Hearing Date(s) Feb 03 ✓ c

Jan 23 ✓ c

Feb 13 ✓ c

_____ c

_____ c

_____ c

_____ c

Date Out Jan 23 ✓ c

Feb 13 ✓ c

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

3/16 TABLED IN COMMITTEE
DIED IN COMMITTEE

HB 229 INTRODUCED BY H.S. HANSON, ET AL.

SUBMIT TO QUALIFIED ELECTORS OF MONTANA AN AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO REPLACE THE BOARD OF EDUCATION, THE BOARD OF REGENTS, AND THE COMMISSIONER OF HIGHER EDUCATION WITH THE DEPARTMENT OF EDUCATION AND A STATE EDUCATION COMMISSION

BY REQUEST OF THE GOVERNOR

1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/20	HEARING		
1/20	FISCAL NOTE REQUESTED		
1/24	COMMITTEE REPORT—BILL PASSED		
1/25	FISCAL NOTE RECEIVED		
1/25	FISCAL NOTE PRINTED		
1/25	2ND READING PASSED	68	32
1/26	3RD READING PASSED	67	33
	TRANSMITTED TO SENATE		
1/27	FIRST READING		
1/27	REFERRED TO EDUCATION & CULTURAL RESOURCES		
2/03	HEARING		
2/13	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/01	2ND READING CONCURRED	29	20
3/02	3RD READING CONCURRED	29	21
	RETURNED TO HOUSE WITH AMENDMENTS		
3/08	2ND READING AMENDMENTS CONCURRED	68	32
3/09	3RD READING AMENDMENTS CONCURRED	71	29
3/11	SIGNED BY SPEAKER		
3/15	SIGNED BY PRESIDENT		
	CHAPTER NUMBER 156		
	EFFECTIVE DATE: 11/05/96, CONTINGENT UPON VOTER APPROVAL		

HB 230 INTRODUCED BY GRADY, ET AL.

APPROPRIATE FUNDS FOR VOLUNTARY STATEWIDE GENETICS PROGRAM

1/16	INTRODUCED
1/16	REFERRED TO APPROPRIATIONS
3/24	MISSED TRANSMITTAL DEADLINE
	DIED IN COMMITTEE

HB 231 INTRODUCED BY PAVLOVICH

INCREASE COST FOR ENTRY OF CONFESSION OF JUDGMENT

1/16	INTRODUCED		
1/16	FIRST READING		
1/16	REFERRED TO LOCAL GOVERNMENT		
1/17	FISCAL NOTE REQUESTED		
1/21	FISCAL NOTE RECEIVED		
1/21	FISCAL NOTE PRINTED		
1/31	HEARING		
2/15	COMMITTEE REPORT—BILL PASSED		
2/17	2ND READING PASSED	57	42
2/18	3RD READING PASSED	60	39

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0229, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

act submitting to the qualified electors of Montana an amendment to article X, section of the Montana Constitution to replace the state board of education, the board of regents and the commissioner of higher education with a department of education and a state education advisory commission; and providing a delayed effective date and applicability date.

ASSUMPTIONS:

1. If the electors of the State of Montana approve the constitutional initiative proposed in House Bill 228, the Board of Regents and the office of the Commissioner of Higher Education will be eliminated upon passage and approval.
2. The Commissioner of Higher Education will be replaced by a director of a state department of education.
3. The actual transfer of staff, authority and budget responsibility will not take place until July 1, 1997 after the legislature considers the staffing requirements of the new department of education (see technical note.)

FISCAL IMPACT: No impact for the 1997 biennium. The current budget for staff in the office of the Commissioner of Higher Education is \$2.6 million per year.

TECHNICAL NOTES: The effective date of the bill is "on passage and approval and applies to terms of office or appointments on or after January 1, 2001." The Regents appointments would be effective until January 1, 2001, but the Office of the Commissioner of Higher Education may be eliminated upon passage. Some clarification of the effective and applicability dates is necessary.

David Lewis 1-24-95
DAVID LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

S. Hanson
S. HANSON, PRIMARY SPONSOR DATE

Fiscal Note for HB0229, as introduced

HB 229

REP. ELLIS asked if an emotionally and a developmentally disabled student would be handled the same way. Gail Gray said that there was no differentiation between the various disabling conditions.

Closing by Sponsor:

REP. SHEA said that she is not the least bit insulted by the federal legislation. Throughout the state, school districts are complying with the essence of the bill and will attest to the fact that it is a desired piece of legislation. The bill affects everyone. "We need to be vigilant in our commitment to make schools a safe haven for children for learning and growing and nurturing our youth. For students, teachers, families and communities please pass this legislation."

HEARING ON HB 229

Opening Statement by Sponsor:

REP. SONNY HANSON said that HB 229 is a real simple bill. It allows the public the right to vote on the kind of higher education system it wants. He quoted an idea proposed by George Burstin, Anaconda Standard editor in 1913. "Pass bills mandating an end to duplication of courses and creating a chancellorship system that would centralize administrative functions in a single office... In 1994, the Governor's Task Force to Renew State Government stated that coordination between K-12 public education and higher education mandated by the constitution has not been achieved for over 80 years, they are still fighting over the same thing, there needs to be a change. He passed out **Exhibit 1**. The university system now operates under Model 1; the bill changes the system and moves it over to Model 4, where the governor will appoint the Chief State School Officer and the state boards of education. The bill replaces the Board of Education, the Board of Regents and the Commissioner of Higher Education with the Department of Education and a State Education Advisory Commission. It is a constitutional amendment that the public would vote on in the 1996 general election. If passed, the 1997 Legislature could create the Department of Education and start the transfer of various higher education functions to the department. **Exhibit #2** was passed out. The bill makes a more accountable, accessible system. REP. HANSON read parts of a letter from Robert K. Ripley, (informational testimony).

Proponents' Testimony:

Pat Haffey, Senior Policy Advisor for Education, Governor's Office, said they support the recommendation from the task force. They believe that it will offer an opportunity to establish one proficient education agency that will focus primarily on a seamless system of education. It will also provide for one accountable educational agency. It will identify one single

agency as the service provider and as the agency that responds to the needs of people on campuses and in the local districts. One single education agency will eliminate duplication. Most important, it will provide for Montanans the opportunity to vote again on whether they would like an alternative form of government.

Opponents' Testimony:

Mike Malone, President, Montana State University, said that he thinks it is important to take the longer view. The Board of Regents concept has been well established in the history of many states.

Chet Blaylock, Former Member of Montana State Senate, said that there is no way that everybody in Montana is going to be happy about the university system. The university system belongs to everyone and everyone pays taxes on the schools. Before the system is changed, everyone needs to take a good look at the way it is now.

Tom Topla, Former Regent, suggested to the committee that people did vote on the former structure. The people in Montana should have the right to vote on many things not just higher education.

Jim Kaze, Chairman of the Board of Regents, said the bill moves toward greater government not less. The question is what serves all Montanans the best, not just one section of the state. The current constitutional independence of the regents is the best mechanism for higher education governments.

Justin Lee, President of Montana Associated Students, said that the issue greatly concerns the students of Montana. Over the last years, students have seen a change in the way that they are heard and perceived on all levels of the university system, especially by the Board of Regents and the Commissioner of Higher Education. The legislation leaves MAS with a question about their position in the decisionmaking process in the university system. Currently, students are enjoying better relationships and more voice than they have ever had. MAS is concerned that if HB 229 is enacted, it will go against the intent of the 1972 Constitutional changes.

Jeff Baker, Commissioner of Higher Education, covered three points with the committee. One, there is a new vitality in the university system. Two, the direction that Higher Education has been going in the past few years is toward a more incentive-based kind of system. The Montana University system is trying to be run as a more business-like foundation and is pushing the decision-making down to the campus level to give managers the ability to make decisions. The third point is that this change is a long process.

{Tape: 2; Side: A; Approx. Counter: 000; Comments: .}

Sheila Sterns, Chancellor of Western Montana College, suggested not fixing something if it is not broken. There is no excellent college or university in the country that does not have its own board of trustees or board of government. She asked the committee not to change that if it benefits the state of Montana.

Eric Feaver, Montana Education Association, said that if HB 229 were to become law, the governor would become the commissioner of higher education, the legislature would become the Board of Regents, the director of the department of education would be an office manager and there would be an advisory council with no substantial functions.

Terry Minow, Montana Federation of Teachers, said that the system is excellent right now and the MFT opposes HB 229.

Informational Testimony:

REP. HANSON handed in a letter from Robert K. Ripley, Exhibit #3.

Questions From Committee Members and Responses:

REP. SIMPKINS asked Justin Lee if he would comment on the fact that in 1989 the legislature passed a resolution to ask the Board of Regents to set up either a quarter or semester system, and there were a large number of students protesting that. Justin Lee said that from time to time they disagree with the Board of Regents and feel that the Board truly considers what they have to say.

REP. SAM KITZENBERG asked Jeff Baker how he accounts for the higher salary that he received this year. Jeff Baker said that the reason for it was that he was hired on probationary status. His predecessor's increase went up 7% a year. They received a study from the university of Arkansas that even with the increase, he is still the lowest paid head of a multiple campus system in the United States.

REP. SIMPKINS asked Jeff Baker why it seems to appear that the Board of Regents have ignored the legislature rather than work with the legislature. Jeff Baker said that in the last year and a half they have been trying to be up front, candid, and build integrity in what they say so that it is not only giving information, but the information is complete. The relationship with the legislature is to be up front and tell it like it is.

REP. HURDLE asked REP. HANSON how eliminating citizen boards and elected officials and centralizing all of that authority helps the citizens and does it have to do with the public's right to be a player. REP. HANSON said that he thinks the public ought to have the opportunity to vote on the type of system that they

want. The public has never had the opportunity to vote on the system. REP. HURDLE said that she does not see how centralizing all the power in the office of the governor would improve education and be cost effective. REP. HANSON said when an individual is running for re-election and the educational system is under his control, automatically it becomes an item in his campaign and the public will be able to vote him up or down based on the educational campaign material.

REP. HURDLE asked Jeff Baker if the issue does go to the vote of the public, what kind of campaign is going to have to be made to inform the public about the issues and how much it would cost. Jeff Baker said that he doesn't know exactly.

REP. WYATT asked REP. HANSON about the piece of legislation being one of many that affects the Board of Public Education, the Board of Education, Board of Regents and the Office of Public Instruction, and would he like the committee to hold the pieces of legislation all as a group and pass them out together. REP. HANSON said that HB 229 stands alone and he would hope that the committee would take action as soon as possible.

Closing by Sponsor:

REP. HANSON said that he didn't hear one of the opponents say that the public has the right to vote on this system. The public should have the right to vote on the system. He read a verbatim transcript from March 11, 1972 that says "the state board of education shall determine budget requests made of the legislature after forming a plan of allocated funds to all phases of the state's educational system." In closing he said that the change that is being talked about will give more input to the students. He recommended that the committee vote for it and give the people the opportunity to express themselves.

{Tape: 2; Side: B; Approx. Counter: 000; Comments: .}

EXECUTIVE ACTION ON HB 120

Motion: REP. HARRINGTON MOVED HB 120 DO PASS.

Discussion:

REP. SIMPKINS said that he objected to the provision that allows the schools to buy real property out of the general fund. The general fund is exclusively for the purpose of operation and maintenance of the school system and classrooms. He feels that it is wrong for the schools to use the money elsewhere.

REP. HANSON said that he has the same problem with the bill. He feels that general construction needs to be kept out of general fund budgets.

HOUSE OF REPRESENTATIVES

Education

ROLL CALL

DATE 1-20-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Alvin Ellis, Jr., Chairman	X		
Rep. Peggy Arnott, Vice Chairman, Majority	X		
Rep. Vicki Cocchiarella, Vice Chair, Minority	X		
Rep. Matt Denny	X		
Rep. Sonny Hanson	X		
Rep. Dan Harrington	X		
Rep. George Heavy Runner		X	
Rep. Jack Herron	X		
Rep. Joan Hurdle	X		
Rep. Bob Keenan	X		
Rep. Sam Kitzenberg	X		
Rep. Gay Ann Masolo	X		
Rep. Norm Mills	X		
Rep. Bill Rehbein	X		
Rep. Sam Rose	X		
Rep. Debbie Shea	X		
Rep. Dick Simpkins	X		
Rep. Diana Wyatt	X		

Section 9. Boards of education. (1) There is a state board of education composed of the board of regents of higher education and the board of public education. It is responsible for long-range planning, and for coordinating and evaluating policies and programs for the state's educational systems. It shall submit unified budget requests. A tie vote at any meeting may be broken by the governor, who is an ex officio member of each component board.

(2) (a) The government and control of the Montana university system is vested in a board of regents of higher education which shall have full power, responsibility, and authority to supervise, coordinate, manage and control the Montana university system and shall supervise and coordinate other public educational institutions assigned by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms, as provided by law. The governor and superintendent of public instruction are ex officio non-voting members of the board.

(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.

(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board.

Cross-References

Governor, Superintendent of Public Instruction as executive officers, Art. VI, sec. 1, Mont. Const.

Board of Regents exempt from Montana Administrative Procedure Act, 2-4-102.

Governor as member of State Board of Education, 2-15-201.

Superintendent of Public Instruction, 2-15-701; Title 20, ch. 3, part 1.

State Board of Education, 2-15-1501.

Board of Regents, 2-15-1505.

Commissioner of Higher Education, 2-15-1506.

Board of Public Education, 2-15-1507.

Appointments to Boards, 2-15-1508.

Agencies, boards, commissions, and councils allocated to State Board of Education, 2-15-1511 through 2-15-1520.

Application of portions of state employee classification requirements to Board of Regents and Board of Public Education, 2-18-103.

Approval of gubernatorial appointments, Title 5, ch. 5, part 3.

The Legislative Audit Act, Title 5, ch. 13.

Bonds for construction of physical education building at Montana College of Mineral Science and Technology, 17-5-421.

Submission of university system budget, 17-7-112.

Construction of buildings by Board of Regents without legislative approval, 18-2-102.

University system buildings exempt from certain preconstruction requirements, 18-2-103.

Education, Title 20.

State boards and commissions generally, Title 20, ch. 2.

University system, Title 20, ch. 25.

Charges for tuition — waivers, 20-25-421.

Board of Regents may contract with local governments for establishment and operation of joint library services, 22-1-403.

Constitutional Convention Transcript Cross-References

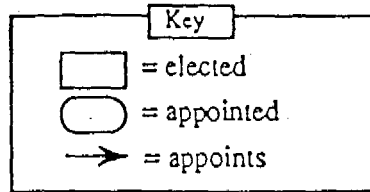
Adoption, Trans. 2939, 2940.

Committee report, Vol. II 719, 720, 731 through 740, 994, 995, 998, 999, 1002, 1004, 1005, 1070, 1071.

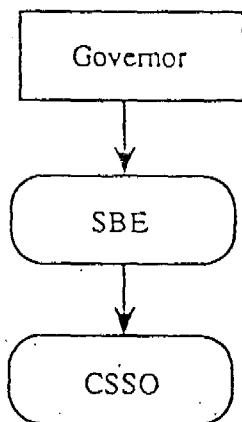
Cross-references, 1889 and 1972 Constitutions, Vol. II 757.

EXHIBIT #1
DATE 12-10-95
BY 113 224

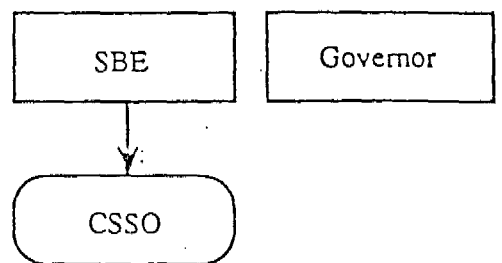
Basic Models of State Education Governance



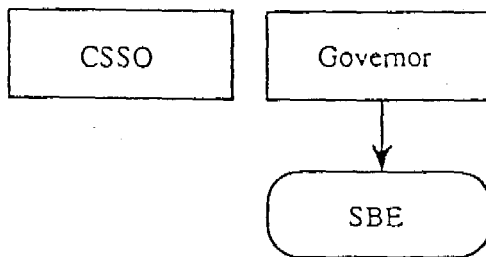
Model One



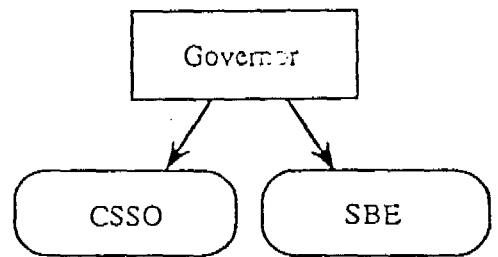
Model Two



Model Three



Model Four



CSSO - CHIEF STATE SCHOOL OFFICER

SBE - STATE BOARDS OF EDUCATION

Table 2
State Boards of Education: Selection Methods

EXHIBIT #2
DATE 1-20-95
B. HB 229

Members Appointed--33 states

Appointed by Governor--31 states

Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, Missouri, Montana, New Jersey, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Tennessee, Vermont, Virginia, West Virginia and Wyoming

Appointed by Governor and Council*--1 state--*New Hampshire*

5 Appointed by Governor, 2 Appointed by Lieutenant Governor, and 2 Appointed by Speaker of the House--1 state--*Mississippi*

Members Elected--13 states

Elected in Partisan Elections--6 states

Alabama, Colorado, Florida, Kansas, Michigan and Texas

Elected in Nonpartisan Elections--5 states

Hawaii, Nebraska, Nevada, Ohio and Utah

Elected by Legislature--1 state--*New York*

Elected by Local School Boards--1 state--*Washington*

Part Appointed, Part Elected--3 states

Part Appointed by Governor, Part Elected--2 states--*Louisiana and New Mexico*

1 Member Appointed by Governor, Remainder Elected by Legislative Delegations of Counties in Judicial Circuits--1 state--*South Carolina*

No State Board of Education--1 state--*Wisconsin*

*The Council is composed of five elected members, and its purpose is to advise the governor.

Table 3
Chief State School Officers: Selection Methods

Appointed--35 states

Appointed by State Board of Education--26 states

Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Hawaii, Illinois, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, New York, Ohio, Rhode Island, Utah, Vermont and West Virginia

Appointed by Governor--9 states

Iowa, Maine, Minnesota, New Jersey, Pennsylvania, South Dakota, Tennessee, Texas and Virginia

Elected--15 states

Elected in Partisan Elections--9 states

Arizona, Florida, Georgia, Idaho, Indiana, Montana, North Carolina, South Carolina and Wyoming

Elected in Nonpartisan Elections--6 states

California, North Dakota, Oklahoma, Oregon, Washington and Wisconsin

Table 4
Changes in CSSO Selection: 1900 to 1992*

Method	1900	1910	1920	1930	1940	1950	1963	1973	1983	1992
Appointed by SBE	3 (7%)	4 (9%)	8 (17%)	8 (17%)	8 (17%)	13 (27%)	23 (46%)	26 (52%)	27 (54%)	26 (52%)
Appointed by Governor	7 (15%)	7 (15%)	6 (12%)	7 (14%)	8 (17%)	6 (13%)	5 (10%)	5 (10%)	5 (10%)	9 (18%)
Elected by Citizenry	31 (69%)	33 (72%)	34 (71%)	33 (69%)	32 (66%)	29 (60%)	22 (44%)	19 (38%)	18 (36%)	15 (30%)
Other**	4 (9%)	2 (4%)								
Number of States	45	46	48	48	48	48	50	50	50	50

*The figures for years from 1900 to 1963 were derived from Will (1964); figures for 1973 and 1983 were derived from Harris (1973, 1983).

**Appointed by General Assembly or ex officio.

TO: REP. SONNY HANSON (R) BILLINGS

3

1/20/95

Montana House of Representatives

EXHIBIT
DATE 1-20-95
#13 229

Helena, Montana

FROM: Robert K. Ripley, Region 4 Coordinator, United We Stand America-Montana, businessman, Missoula, Montana.

SUBJECT: Supporting Testimony for House Bill 229.

United We Stand, America, Montana (UWSA-MT) believes that improvement of education is one of the most important challenges facing our state into the twenty-first century. In our view, the performance of Montana's K-12 education system has stagnated over the past twenty years, even as costs and staffing levels have ballooned. Our higher education system shows disturbing trends in tuition fees and overcrowding. The present system to administer State education functions is fractured in lines of direct responsibility, overly layered by several different bureaucracies, overly politicized, over-manned and unnecessarily costly.

Overall, there is certainly no reason to be complacent over the condition of education in Montana, and there is a need to carefully consider proposals offered to "reform" our education structure. Within UWSA-MT, I have been given the primary responsibility to review the impact of HB 229, to place on the November, 1996, Ballot a Constitutional Amendment to Article X, Section 9, of the Montana Constitution, "to replace the Board of Education, the Board of Regents, and the Commissioner of Higher Education with the Department of Education and a State Advisory Commission; and providing a delayed effective date and an applicability date".

I have previously written the Governor on behalf of our organization expressing our inclination to support the creation of a Department of Education, providing it can be clearly shown that such a structure will enhance educational quality and improve cost-effectiveness. UWSA-MT support is based on several factors, but can be summarized as reflecting the perceived will of the people of Montana to reform their government in order to reduce taxes, restore direct responsibility in all branches and levels of government for actions taken on behalf of the people of Montana. We are aware that this Bill merely places a full review and vote before the electorate on the subject of educational responsibility in Montana. We believe that, in the course of the election campaign for and against this reorganization, Montanans' attention will become focused on the strengths and deficiencies of our current system of education and good ideas will surface for the improvement of education at all levels. I therefore strongly urge that HB229 be passed.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Education COMMITTEE DATE 1-20-95
BILL NO. 229 SPONSOR(S) Rep. Sunny Hansen

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Stoney Burk PO Box 70 CHOTEAU, MT 59422	SELF	X	
Jim Kaze, Haure, MT	MT. Bd of Regents		X
ERIC FEAVER	MEA		X
Mr. Blake	MCU		X
R.J. CARR	HELENA COLLEGE of TECH		X
PAT DAVISON	BOARD of REGENTS		X
Chad Baylock			X
MARY ALICE COOK	ADVOCATES for MTs Children		
Terry Minnow	MTA		X
PACE, GARRY A	MONTANA TECH STUDENTS	X	
Jennifer Ponosuk	ASSOCIATED STUDENTS U of MT - Missoula		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:visssbcom.man

CS-14

{Tape: 3; Side: B; Approx. Counter: 670; Comments: n/a.}

EXECUTIVE ACTION ON HB 229

Motion: CHAIRMAN ELLIS MOVED THAT HB 229 DO PASS.

Discussion:

REP. HARRINGTON said he would oppose this bill because it would bring the education department issues about money and hiring back to the legislature.

REP. HERRON said he would also oppose the bill and thought they should just continue the way it is.

{Tape: 4; Side: A; Approx. Counter: 000; Comments: Sound quality very poor; echo and background noise.}

REP. SIMPKINS supported this bill and said it would give people a choice on how they want the university system to be run.

CHAIRMAN ELLIS said he was going to vote for the bill. He said they are responsible for supervision but have no funding responsibilities, and that is his primary reason that he believes the system should be changed. There's no one they can hold accountable. He described frustrations he has had in the past with a commissioner of higher education, and said at least the current commissioner honestly addressed questions that came before him during the session.

REP. HURDLE said it was important to remember that for the university system to work it has to have some insulation from politics and said there would be better ways to improve the system rather than subjecting the whole university system to the politic whims of the state. She said she would vote against the bill.

REP. MILLS said he intended to vote for the bill, because when he moved to Montana in 1954, he went to the university to earn a higher degree. He said he got no assistance from anyone in the system. In 1972, with the new constitution, and more money for the board of regents and the commissioner of higher education, they still haven't solved the problems that have existed since 1954.

REP. VICKI COCCHIARELLA said for the reasons expressed by REP. MILLS this bill shouldn't pass. She said the legislature should not have that kind of a direct influence on what happens in the university system. She suggested to REP. MILLS that they could get a lot done as legislators, but taking over the university system is not something they should do. In 1972, the university system became autonomous, to prevent there being uneven representation in the legislature. She said they do have

administrative problems, and she knows because she worked in the registrar's office at the University of Montana in Missoula. She said parents and students who have problems have somewhere to go to express frustrations and lodge complaints. The other point she wished to make was that this legislature is dismantling many of the educational agencies that are currently in operation and she was afraid of the "total fallout" of all this and what would be left of education in the end, and for that reason she urged a no vote.

REP. MILLS rebutted REP. COCCHIARELLA and said that having someone to complain to who tells him what he wants to hear, doesn't always get the job done.

REP. PEGGY ARNOTT said she understood that this bill would not change the system, but would put it to a vote of the people who could decide what they want.

{Tape: 4; Side: A; Approx. Counter: 388; Comments: n/a.}

REP. HEAVY RUNNER said he feared this issue would create a battle when it's brought before the voters.

REP. ROSE said they are not making the final decision, and thought they should get it out on the House floor.

Vote: Roll call vote was taken. The motion carried 11-7 with REPS. COCCHIARELLA, HARRINGTON, HEAVY RUNNER, HERRON, HURDLE, SHEA and WYATT voting no.

{Tape: 4; Side: A; Approx. Counter: 562; Comments: The meeting adjourned.}



ENTATIVES

HOUSE STANDING COM

Mr. Speaker: We, the committee on Education and Cultu

House

Bill 229 (first reading copy -- white) do pass.

Signed.

A handwritten signature in cursive script, appearing to read "Alvin Ellis, Jr.", is written over a horizontal line.

Alvin Ellis, Jr., Chair

Committee Vote:
Yes 11, No 7.

200946SC.Hdh

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

Education Committee

DATE 1-23-95 BILL NO. 229 NUMBER _____

MOTION: Rep Rehbein - DO PASS

NAME	AYE	NO
Rep. Alvin Ellis, Jr., Chairman	X	
Rep. Peggy Arnott, Vice Chairman, Majority	X	
Rep. Vicki Cocchiarella, Vice Chairman, Minority		X
Rep. Matt Denny	X	
Rep. Sonny Hanson (absent)	X	
Rep. Dan Harrington		X
Rep. George Heavy Runner		X
Rep. Jack Herron		X
Rep. Joan Hurdle		X
Rep. Bob Keenan	X	
Rep. Sam Kitzenberg	X	
Rep. Gay Ann Masolo	X	
Rep. Norm Mills	X	
Rep. Bill Rehbein	X	
Rep. Sam Rose	X	
Rep. Debbie Shea (absent)		X
Rep. Dick Simpkins	X	
Rep. Diana Wyatt		X

11 7

Proponents' Testimony:

Gail Gray, Office of Public Instruction (OPI), asked support for HB 25, saying the extra time would benefit OPI. Rush time was in the summer and the 60-day head start would be most helpful.

Don Waldron, Montana Rural Education Association (MREA), urged DO PASS for HB 25.

Opponents' Testimony: None.

Questions From Committee Members and Responses: None.

Closing by Sponsor:

REP. PECK apologized for missing the hearing the first time HB 25 was scheduled, explaining he was on the House floor dealing with another bill.

HEARING ON HB 229

Opening Statement by Sponsor:

H.S. "SONNY" HANSON, HD 9, Billings, said HB 229 is about the people's right to participate in the selection of their school governance system. The Governor's Task Force was staffed, funded and participated by the public in driving HB 229 and HB 228. The two bills were split; HB 229 deals with higher education and HB 228 deals with K-12 education. HB 229 replaces the State Board of Education, Board of Regents and the Commissioner of Higher Education with a Department of Education and State Education Advisory Committee. HB 229 is a Constitutional Amendment which would be presented in the 1996 election and, if passed by the 1997 legislature, would create the Department of Education. At that time, the transfer of various higher education functions to the Department of Education would begin. All existing terms and appointments affected by the passage of HB 229 would change after December 1, 2000. REP. HANSON stressed the fact that HB 229 does not eliminate the position of Commissioner of Higher Education until January 1, 2001.

REP. HANSON remarked that he had prepared HB 229 with the modifications included (EXHIBIT 1) so it would be easier to follow, but he also pointed out that the amendments were listed on a separate sheet of paper. (EXHIBIT 2). He then explained the amendment changes "state education advisory commission" to "state education commission" whose duties will be assigned by law (legislature). It dates and establishes the Department of Education. The members of the State Education Commission will be appointed by the Governor which makes him fit into the line of authority. The legislative input, which has been lacking, is added to higher education.

REP. HANSON shared some historical information which said in 1913, the legislature passed bills mandating an end to duplication of courses and creating a chancellorship system which would centralize administrative functions into a single course. At that time, the president of the University of Montana was fired by the State Board of Education because he would not stop campaigning for that consolidation. In 1994, the Public Task Force on School Governance stated the coordination of public and higher education mandated by the constitution has not been achieved. REP. HANSON said 80 years had been spent in trying to coordinate these bodies, but there hasn't yet been a change. He said the special session of 1992 demanded that monies be cut from the budget even though it was very hard to do so. About a month later, a Montana newspaper reported \$5 million had been found by the university to raise salaries for the faculty and staff. More recently, the purchase of a car was being pursued even though the Governor said "no". On January 20, 1995, the Board of Regents approved a raise for the staff, saying monies for the increases will come from a surcharge known as super-tuition which the U of M law students now pay. The surcharges for law students will rise from \$2,200 to \$3,700 for a law degree.

Nationally, the question being asked is, "Who should be involved in making decisions regarding education?" In the past, Governors have never been involved but there are now nine states where education is controlled by the governor. HB 229 is really about giving the public a right to vote on the type of school governance they developed without going through the expense of getting signatures. REP. HANSON said he firmly believed the public should be given the opportunity to vote whether or not they want the system changed.

Proponents' Testimony:

Pat Haffey, Senior Policy Advisor for Education, Governor's Office, said HB 229 was part of the Task Force recommendation given to the Governor and adopted by him. That Task Force recommendation provided for the elimination of the Office of Public Instruction, the Board of Public Education, Board of Education, Board of Regents, and the Commissioner of Higher Education positions. The preceding positions were to be replaced with the Department of Education and the Education Commission. The recommendation also provided for the people to vote as to whether they wanted the current composition of elected and appointed officials or whether they would prefer to have a Department of Education which would be responsible to the Governor, the legislature and ultimately to the people.

Ms. Haffey said the Governor's office believes HB 229 is a good proposal because it offers an opportunity to provide: (1) An identifiable education agency which will provide services and be responsive to the districts and to the campuses; (2) An accountable education agency which will be accountable for developing policy and budget representations and implementing

them as well; (3) Montanans with the constitutional ability to make the choice.

Ms. Haffey referred to a few surveys which were conducted. The Task Force included a survey in Montana newspapers during the summer of 1994, and received 900 responses. 77% of those responses supported the creation of a Department of Education; 23% were opposed. MSU-Billings conducted another survey to which 400 responded. 38% favored the creation and 24% wanted to leave the organization as it was. The Montana Ambassadors also circulated a survey to which 67 responded; 43 approved the creation of a new department while 16 were opposed. Ms. Haffey concluded by urging support for HB 229, thus giving Montanans the opportunity to determine how they would like their education system structured.

Mary Gilluly, Associated Students of MSU-Billings, read her written testimony. EXHIBIT 3

Opponents' Testimony:

Jeff Baker, Commissioner of Higher Education, read his written testimony. EXHIBIT 4

Steve Snezik, Associated Students of MSU-Bozeman, read his written testimony. EXHIBIT 5

Terry Minow, Montana Federation of Teachers (MFT), said MFT, representing faculty and staff of the vo-techs, faculty of U of M, faculty of former Eastern, Western and Northern, Dawson Community College and part-time instructors of Flathead Community College, public school teachers and staff, rises in opposition to SB 229. She urged support for the Constitution of Montana, explaining that it is a document which has served well, and again urged opposition to HB 229.

Brian Barnett, Associated Students of U of M, Missoula (ASUM), said ASUM is concerned about bureaucracy, academic freedom questions and the leaving behind of a system which has worked very well to this point; therefore, ASUM opposed HB 229. In the past few years, students have had success in dealing with the Board of Regents regarding tuition, fees, and other student services. HB 229 is not a bureaucratic or political, but an educational issue. Mr. Barnett said Montana's educational system was a fine one and changing it now would not be to the best advantage.

Eric Feaver, Montana Education Association (MEA), said the only higher education members in MEA were the full-time faculty members at Flathead Community College. Mr. Feaver challenged Pat Haffey's testimony that HB 229 was the recommendation of the Task Force, saying that he had served on that Task Force. The Governor's Task Force recommendation overlooked, as does HB 229, what is happening because the Governor is showing true leadership

in the education arena, something that Montana's Governors have not done since the 1972 constitution. This educational leadership authority is granted him by the constitution; however, the constitution should not be amended before it's been tried.

Mr. Feaver stated that the Governor's authority in education should be to bring parties together, and not to appoint. If **HB 229** passes, the Governor would be the Commissioner of Higher Education and the legislature the Board of Regents; notwithstanding the amendment which has been offered. He urged **DO NOT PASS** on **HB 229**.

Justin Lee, Associated Students of U of M-Dillon, said Montana Associated Students is opposed to **HB 229**, believing university students could be negatively affected by **HB 229**. **Mr. Lee** believed the 1972 constitutional convention had the intent of depoliticizing the university system and said educational decisions need to be made on educational, not political, merit. **Mr. Lee** commended the Board's willingness, over the past few years, to make extremely difficult decisions which both the legislature and Governor hesitated to do. He believed the Board protected education without being concerned with the politics of the state. **ASUM-Dillon's** overwhelming concern, though, with changing the current Board is over the past few years, students have made tremendous strides in gaining access to the Board of Regents. **Dr. Jeff Baker** and current Board members have helped students achieve the responsibility of playing a critical role in being part of the decision-making process in the Board of Regents. He said nothing in **HB 229** indicates students would have that same say. **ASUM-Dillon** believes Governor **Racicot** has been a pro-education Governor; however, the concern is the succeeding Governors may not be so concerned about education.

Mr. Lee said they don't always agree with the Board of Regents' decisions, and many times their poor, not good, decisions get the spotlight. Most issues are seldom black or white which makes good solutions seldom black or white, i.e. this legislature is being asked to make something black or white from a gray issue. He asked that **HB 229 DO NOT PASS**.

Dr. Sheila Stearns, Chancellor, Western Montana College of the University of Montana, sent her written testimony which **Justin Lee** distributed. **EXHIBIT 6**

LeRoy Schramm, Chief Legal Counsel for University System, said he would provide information because some of the testimony had been incorrect when it alluded to the fact other states were reorganizing in the manner proposed by **HB 229**. He distributed a chart showing higher education information (**EXHIBIT 7**) and said it was difficult to compare higher education organizations with other states but the thread which runs through them all is there is not one state which has removed its governing board from the top of its higher education institution, i.e. the Governor is not at the top with a direct line down into the institutions of higher education; there is always an intervening board. **Mr.**

Schramm pointed out that even if HB 229 should be adopted, Montana would be out of step with the other 49 states, as shown by the last column on the chart. HB 229 is a start toward patterning Montana's university system after a national model; to be the first state to implement such a structure would not necessarily be a mistake, but neither might it be beneficial.

Jim Fitzpatrick, Executive Director, State Council on Vocational Education, said he spent most of his life in education and has seen many changes. He said he could support change if it would result in something better than is currently in place. Leadership, effectiveness, productivity and eventual results are vested with the person at the helm. Mr. Fitzpatrick praised the relationship of the vo-techs with the Board of Public Education, Board of Regents and Commissioner's Office, saying the recent vo-tech changes are on track. More people are enrolling in the two-year programs and more emphasis is being placed there. Mr. Fitzpatrick said the Governor, Commissioner and others involved are the right people to make the changes which will move Montana into the next millennium. He asked that HB 229 be considered with the perspective of staying on course.

Questions From Committee Members and Responses:

SEN. MIGNON WATERMAN expressed concern about the splitting of the Task Force Recommendations into HB 228 and HB 229, especially if one would pass and the other would not. REP. HANSON said if one looks at the authority of the Boards, the split is logical. He further explained the government and control of the university system is vested in the Board of Regents which has full authority to manage and control the Montana university system. The Board shall also supervise and coordinate other public educational institutions assigned by law, which conflicts with control of local school trustees. In comparison, the duties of the Superintendent of Public Instruction are as assigned by law, so it seemed logical to split the bills into K-12 and higher education.

SEN. WATERMAN still was unclear regarding the ramifications of HB 229 passing and HB 228 failing -- would the link (Board of Education) between the two be lost? REP. HANSON said the link would be determined by the legislature. Most of the duties presently assigned the K-12 section, including the Board of Public Education, are assigned by statute. The Board of Regents cannot be assigned duties by statute. If a Department of Education were created by a public vote, the Board of Regents would be covered, thus linking the two. This link would encourage more cooperation between K-12 and higher education than ever before.

SEN. WATERMAN said there were eight members on the new advisory commission but no student member. She asked for student opinion on that. Justin B. Lee said he understood a student would be included, but if indeed there were none, the Associated Students

would be very opposed to HB 229.

SEN. WATERMAN asked for explanation of the rotation/appointment of eight board members. REP. HANSON said there should be a student on the board, who would be a fluctuating member who would come and go because it would be likely that he/she would not be attending the university for seven years. He reminded SEN. WATERMAN that the actual board makeup and content would be developed in the 1997 legislative session.

SEN. WATERMAN asked for clarification of her understanding that of the eight-member board, one of the members would not be appointed for a seven-year term, but a year at a time. REP. HANSON said it was the intent the director should be in a position to vote only in case of a tie; therefore, the even number of members. SEN. WATERMAN commented that eight members would be appointed, each for seven years, by the Governor. If the Governor serves only one term, there is the potential that the Governor would never be in control of that Board. Also, the Director of Higher Education, who would have been appointed by the Governor, could be in great conflict with that Board. REP. HANSON said that was correct.

SEN. DELWYN GAGE wondered about Terry Minow's comment that all the members of MFT were opposed to HB 229. She replied the

{Tape: 1; Side: B; Approx. Counter: ; Comments: .}

union had a 20-member executive council which takes positions and gives her direction as a lobbyist. SEN. GAGE commented that the executive council didn't necessarily tell Ms. Minow all their members were opposed to HB 229. Ms. Minow said MFT uses a representative system rather than a membership poll.

SEN. GAGE asked Justin Lee how many students were involved in the governing of the Associated Students organization. Mr. Lee said the decision-making process comes from a gathering of student body presidents of the two universities, four colleges, and four vo-techs.

SEN. LOREN JENKINS asked what would happen between the effective date of 1997 and terms of office or appointments in 2001. REP. HANSON answered the Governor felt those who are appointed or have terms of that length should serve out their terms, even if the public accepts the Constitutional Amendment as set forth in HB 229. He said the rules and regulations would be developed in 1997, and it was imperative the phase-in and phase-out be gradual because the existing people could help facilitate and implement the change.

SEN. JENKINS asked if after 1997, as Board of Regents or Board of Education member terms expire and the Governor appoints replacements, the appointments would be to only one Board? REP. HANSON said he expected a gradual phase-in/phase-out utilization

of the Board of Regents in the Education Commission. **SEN. JENKINS** commented people would have a hard time understanding they were voting for something which would happen five years later. **REP. HANSON** reminded the committee the Department of Education and its administration would visibly begin July 1, 1997.

SEN. BARRY "SPOOK" STANG asked if the legislature's role in the new system would be equal to that of school board. **REP. HANSON** replied because school board members were elected, as is the legislature, the role would be closer to school board than to Board of Regents which is not elected. Duties of the State Education Commission would be assigned by the legislature.

SEN. STANG asked if the legislature would set the curriculum for K-12 and hire/fire the administrators of each university unit if there was disagreement with the advisory board regarding its handling of those areas. **REP. HANSON** said it would not, that this organization would be comparable to the Highway Commission to whom the legislature has assigned certain duties which cannot be usurped by the Governor. **SEN. STANG** commented the legislature could cut the funding for the university system to nothing, which would mean there would be no university system, which would mean there would be nobody to raise tuition. **SEN. STANG** said the word "public" was used often by **REP. HANSON** and he wondered if students were not public people. **REP. HANSON** said they were part of the public which is specifically attached, and his references to the public meant people who are not part of the higher educational system.

SEN. STANG commented there were no public people to testify in favor of HB 229, except for **REP. HANSON**, Pat Haffey and Mary Gilluly. **REP. HANSON** said United We Stand had called him to say that they are still in support of HB 229.

SEN. STEVE DOHERTY asked for an explanation of the difference between the State Education Commission and the Board of Regents. **REP. HANSON** said the Governor is brought into the educational loop and there is a division of authority. At the present time, the legislature has neither authority nor input into the Board of Regents as to how it shall operate; the Board has complete control. The State Education Commission would allow the legislature to have input and to assign specific duties to the Commission.

SEN. DOHERTY asked if the Governor was presently involved in higher education because he appoints members of the Board of Regents. **REP. HANSON** said he appoints one a year which means it takes his four-year term before he has input on the Board. He is an ex-officio member and does not have a vote.

SEN. DOHERTY stated the framers of the constitution wanted to keep some autonomy to the university system so it wouldn't be subject to the political whims of governors or legislatures. He

asked for comment on how much the governor or legislature should meddle in higher education. REP. HANSON said at the present time, there was no legislative input into the controls of the Board of Regents; in fact, the Governor only has the authority to replace the director and deputy director.

SEN. TOEWS asked how the State Education Commission would work with the legislature on issues like setting tuition, etc. REP. HANSON said the State Education Commission would have authority as granted by the legislature.

SEN. WATERMAN asked what the new structure of K-12 would be. REP. HANSON replied the Superintendent of Public Instruction would remain because those duties are established by statute. The State Education Commission would be given duties by law. SEN. WATERMAN also commented HB 229 leaves the Commissioner of Higher Education in the Constitution and wondered why it was not eliminated in the bill. REP. HANSON commented that HB 228 eliminates that.

SEN. WATERMAN asked for a clearer understanding of the effective dates of the termination of the office of the Commissioner of Higher Education, according to the fiscal note. REP. HANSON called attention to the bottom of the note, and the words, "may be replaced." The Commissioner of Higher Education is by appointment and he will serve until it's decided he wants to go.

SEN. STANG said he could foresee the possibility of the legislature withholding funds from certain parts of higher education because of special interests within the body. REP. HANSON commented that happens now, though subtly. SEN. STANG also asked about the priority list of the university system needs. REP. HANSON said prioritizing the construction needs within the university system has been going on for a long time.

SEN. DOHERTY said the members of the State Education Commission would be appointed by the Governor but not confirmed by the Senate, and he wondered why that was so. Ms. Haffey said the omission was not intentional and could be amended.

SEN. DOHERTY asked for affirmation of the value of the Senate confirming appointments by the Governor. Ms. Haffey concurred.

SEN. WATERMAN asked if the sponsor would have a problem with contingency language, i.e. both HB 229 and HB 228 either pass or fail. REP. HANSON said he would object and he was sure the Governor's office would also. The reason for the objection is they are two different entities.

Closing by Sponsor:

REP. HANSON said many of the opponents of HB 229 expressed their desire for change, but when change affects their particular area,

they object. He remarked that Eric Feaver said the system is beginning to work, but REP. HANSON asked the committee to remember 23 years have been spent trying to get something going. He said he didn't understand the reluctance by the opponents to allow the public to vote on HB 229, when the Constitution gives the people the power of initiative and referendum.

He addressed Mr. Schramm's statement about the study and wanted to clarify he was quoting from the State Education Governance Structure, done by the Indiana Education Policy Center School of Education Office, and published in 1993. This study, available for anyone who is interested, was contracted for and not done by our own office.

REP. HANSON concluded by saying HB 229 needs 100 votes in order to get to the people, and he urged its passing.

EXECUTIVE ACTION ON HOUSE BILL 25

Motion/Vote: SEN. CASEY EMERSON MOVED HB 25 BE CONCURRED IN.
Motion CARRIED by UNANIMOUS voice vote.

SEN. CASEY EMERSON will carry HB 25.

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 8

Motion/Vote: SEN. STEVE DOHERTY MOVED TO APPROVE THE AMENDMENTS ADDED TO SJR 8. EXHIBIT 8. Motion CARRIED by UNANIMOUS voice vote.

Motion: SEN. CASEY EMERSON MOVED DO PASS FOR SJR 8 AS AMENDED.

Discussion: SEN. WATERMAN asked if Mothers Day was the day chosen because Sacajawea was a mother. SEN. EMERSON said Mothers Day was the day set for the statute ceremony in Bozeman, and it was decided to tie the two together.

SEN. TOEWS asked if another day could be considered and SEN. EMERSON said it would be hard to do since the unveiling of the statute has already been scheduled. Eddye McClure pointed out that the Governor is to designate a day.

Vote: Motion to designate the second Sunday of each year as a day to recognize and honor the contributions of American Indian women CARRIED 9-1, with SEN. DARYL TOEWS voting "No."

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE _____

2/3/95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

1 -
2 INTRODUCED BY Sam Houston - North Forrest Julian
3 BY REQUEST OF THE GOVERNOR
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT SUBMITTING TO THE QUALIFIED ELECTORS OF MONTANA AN
6 AMENDMENT TO ARTICLE X, SECTION 9, OF THE MONTANA CONSTITUTION TO REPLACE THE BOARD
7 OF EDUCATION, THE BOARD OF REGENTS, AND THE COMMISSIONER OF HIGHER EDUCATION WITH
8 THE DEPARTMENT OF EDUCATION AND A STATE EDUCATION ~~COMMISSION~~ COMMISSION; AND
9 PROVIDING A DELAYED EFFECTIVE DATE AND AN APPLICABILITY DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 Section 1. Article X, section 9, of The Constitution of the State of Montana is amended to read:

14 "Section 9. ~~Boards~~ Department of education -- state education ~~commission~~ -- board of
15 public education. (1) There is a ~~state board of education composed of the board of regents of higher~~
16 ~~education and the board of public education. It is responsible for long range planning, and for coordinating~~
17 ~~and evaluating policies and programs for the state's educational systems. It shall submit unified budget~~
18 ~~requests~~ department of education, with a director appointed by the governor. The department and the
19 director shall have duties as assigned by law.

20 (2) There is a state education ~~commission~~ commission, consisting of eight members appointed to
21 staggered, 7-year terms by the governor. The commission shall ~~have duties assigned by law.~~
22 ~~have duties assigned by law.~~ A Except in the case of a tie vote at any meeting may be broken
23 by of the commission, the governor, who director shall serve as the non-voting presiding officer and is an
24 ex officio member of each component board the commission.

25 (2) (a) The government and control of the Montana university system is vested in a board of
26 regents of higher education which shall have full power, responsibility, and authority to supervise,
27 coordinate, manage and control the Montana university system and shall supervise and coordinate other
28 public educational institutions assigned by law.

29 (b) The board consists of seven members appointed by the governor, and confirmed by the senate,
30 to overlapping terms, as provided by law. The governor and superintendent of public instruction are an ex

~~ex officio non-voting members of the board.~~

~~(c) The board shall appoint a commissioner of higher education and prescribe his term and duties.~~

~~(d) The funds and appropriations under the control of the board of regents are subject to the same audit provisions as are all other state funds.~~

(3) (a) There is a board of public education to exercise general supervision over the public school system and such other public educational institutions as may be assigned by law. Other duties of the board shall be provided by law.

(b) The board consists of seven members appointed by the governor, and confirmed by the senate, to overlapping terms as provided by law. The governor, commissioner of higher education and state superintendent of public instruction shall be ex officio non-voting members of the board."

NEW SECTION. Section 2. Effective date -- applicability. If approved by the electorate, this amendment is effective on passage and approval and applies to terms of office or appointments on or after January 1, 2001.

NEW SECTION. Section 3. Submission to electorate. This amendment shall be submitted to the qualified electors of Montana at the general election to be held in November 1996 by printing on the ballot the full title of this act and the following:

[] FOR replacing the board of education, board of regents, and commissioner of higher education with a department of education and a state education ~~commission~~ commission.

[] AGAINST replacing the board of education, board of regents, and commissioner of higher education with a department of education and a state education ~~commission~~ commission.

-END-

Amendments to House Bill No. 229 BILL NO. HB229
1st Reading Copy

- Requested by Representative Hanson
For the Senate Committee on Education

Prepared by Andrea Merrill
January 30, 1995

1. Title, line 8.
Following: second "EDUCATION"
Strike: "ADVISORY"
2. Page 1, line 14.
Following: "education"
Strike: "advisory"
3. Page 1, line 20.
Following: "education"
Strike: "advisory"
4. Page 1, lines 21 and 22.
Following: "shall" on line 21
Strike: remainder of line 21 through "education" on line 22
Insert: "have duties assigned by law"
5. Page 2, line 20.
Following: "education"
Strike: "advisory"
6. Page 2, line 22.
Following: "education"
Strike: "advisory"

SENATE EDUCATION

EXHIBIT NO. 3

DATE 2/2/95

BILL NO. HB 229

Testimony given to Senate Committee on Education and Cultural Resources--February 3, 1995

Mr. Chairman, members of the committee, my name is Mary Gilluly, and I represent the Associated Students of Montana State University-Billings. I rise today in qualified support of House Bill 229.

As I sat writing this testimony this morning, it was hard not to notice the hundreds of home school children milling through the halls of the Capitol. HB 229 is not about the immediate future of higher education in Montana, and to see it as such is, I believe short sighted. HB 229 is about the children in the hallways--their future and their access to a quality higher education system.

When the Constitutional Convention created the Board of Regents and the Commissioner's office in 1972, it had good reasons. Perhaps the most compelling was a move toward depoliticizing higher education in the state of Montana. Certainly, protecting academic freedom and maintaining autonomy were important parts of that.

Unfortunately, although no one can argue that the Board of Regents has maintained autonomy and academic freedom, neither can they argue that higher education has been depoliticized through the current structure. Indeed, within the system itself, and between the Board of Regents, the Commissioner's office and the legislature, there has existed in recent history, though not immediately, a level of political animosity that has served neither the University System or the state of Montana well. If HB 229 would help alleviate that, we offer our support.

As students, we are concerned certainly about funding levels for the entire University System. But we are also concerned about funding equity within that system. On our campus, this is of particular concern as we receive the lowest FTE expenditure by the state and pay the largest percentage of the cost of our education in tuition dollars. The funding model proposed for this biennium continues that trend. If the passage of HB 229 would help bring equitable funding to each unit of the system, taking into account the individual nature of each campus, then we support HB229.

Thirdly, we support HB 229 because of the level of distrust that has led to the perception by a number of Montanans that Higher Education is mismanaged--indeed leading ultimately to the Governor's Task Force recommendation. Either seemingly, or in reality, the people of Montana, the legislature, the students, and the taxpayers see the current system as not responsive enough to their concerns, their needs, or their call for fiscal accountability. We support HB 229 if it would provide that responsiveness.

Finally, as taxpayers as well as students, we support HB 229 because we believe that fiscal accountability is an issue. The current system has no mechanism in place to assure that accountability.

Our support for HB 229 is qualified only because it is impossible to know what the final structure of higher education

will be under a new system. We do have ideas, questions, and concerns, and rest assured, we will be back in 1997 to help you build that structure.

We do believe that the current Board of Regents and Commissioner are doing many good things for higher education. And we gratefully acknowledge that they listen to students. However, we must also acknowledge that being listened to is very different from having an actual voice. We believe that the passage of HB 229 will grant us that voice.

Thank you.

TESTIMONY PRESENTED TO THE
SENATE EDUCATION AND CULTURAL RESOURCES COMMITTEE
ON FRIDAY, FEBRUARY 3, 1995,
BY COMMISSIONER OF HIGHER EDUCATION JEFF BAKER

The Governor's Task Force to Renew Montana Government established four objectives for school governance:

- 1. To coordinate kindergarten through graduate school education, providing management of a "seamless" educational system, necessary to the making of management and policy decisions on those issues common to kindergarten through 12th grade and higher education.*
- 2. To provide a more cohesive executive level structure for education, thereby facilitating statewide planning, coordination and improvement of the state's educational efforts.*
- 3. To provide earlier integration of educational interests in the overall budget process.*
- 4. To separate education policy from partisan politics.*

Pennsylvania was chosen as the model for Montana. The task force brought in Dr. Donald M. Carroll, Jr., who heads the Pennsylvania Department of Education. Dr. Carroll made a presentation to the task force and a METNET audience so that people in several cities could ask him questions about the Pennsylvania Department of Education. This is what Montana is considering.

[See attached organization chart.] This is the Pennsylvania Department of Education—800-plus strong.

The Montana University System is headed in exactly the opposite direction from the bureaucracy that comes with another government agency such as that found in Pennsylvania. We are moving and want to continue to move in the direction that has evolved during the past 10 years and has recently accelerated with the new restructuring and business practices that have been implemented and are being

planned for the future. The Office of the Commissioner of Higher Education has 15.85 employees in university system administration funded out of the general fund—not hundreds. Are you prepared to ask your constituents to consider a Pennsylvania model for Montana? The Montana University System has momentum and is moving in exciting new directions. Are we going to spend the next two years debating and sapping vital energy and resources instead of giving the restructured system a chance?

House Bill 228—the companion bill to House Bill 229—is apparently stalled. What happens if House Bill 229 is passed and House Bill 228 falters? Instead of today's system, we might have the Office of Public Instruction, a Board of Public Education, the executive director and staff to the Board of Public Education, a Department of Education, a Director of Education (only higher education now), and a State Education Advisory Commission—some parts reporting to the Governor, some parts elected, some parts appointed; all parts more disjointed and seemingly not connected at all. We have the potential to create an unbelievable monster. This proposal has not been well conceived nor well thought out. It is political and precisely the reason the current system was established. Put quite simply—What is the plan? Is there a plan? Before we buy a car, we all want to see what is under the hood. Is this the engine that will power our new auto?

Task Force objective #4 is: "To separate education policy from partisan politics." The 1972 Constitution established some autonomy for higher education because its large, powerful constituencies made for very divisive lobbying among the units. For the past 23 years, the Board of Regents has successfully minimized the "lone ranger" power plays among colleges with powerful legislative delegations. Today the Montana University System is functioning as a system. I hear in these halls many who criticize the Board of Regents for decisions that are "bad timing" at best. Their timing is not always the best politically, but that is because their first concern is what is best for students and Montana education, not what is politically correct.

Political correctness is fashionable but not the way to manage education in these times of unprecedented change.

House Bill 229 would take away the one board with governing authority over higher education. This is our school board. Imagine if all the school boards in your counties were dissolved and all authority was put in your mayors' offices or, in the case under consideration, the Governor. Higher education has only one board—just one. The lay members from across the state are appointed by the Governor. The system of checks and balances among the Governor, Legislature, and Regents is in place.

Most duplication in the university system occurred before the Board of Regents was created, in the free-wheeling earlier decades when raw political power or presidential finesse caused the proliferation of programs. Since 1972, the addition of programs to any of our units is an extremely difficult process, carefully scrutinized by Regents who do indeed feel highly responsible and accountable to the people of Montana.

House Bill 229 is unprecedented. What is the real plan? Where are we headed? What happens if both House Bill 228 and House Bill 229 do not pass? What happens if they do? We can see the struggle for control. Where is the struggle for what is best for the education of our students? I submit to you that it is not in this bill. I strongly urge that you stop the proliferation of centralized bureaucracy created by this legislation.

EXHIBIT 4
DATE 2-3-95
HB 229

~~PENNSYLVANIA DEPARTMENT OF EDUCATION~~



95-R-1

Sponsors:
Amy Palmer
Chris Heggem

SENATE EDUCATION

EXHIBIT NO. 5
DATE 2/3/95
BILL NO. HB 229

Vote Necessary: Majority

Vote: Y 20 N 0 A 0
(Unanimous)

INTENT: To express ASMSU - Bozeman's opposition to House Bill 229, currently before the Montana Legislature.

WHEREAS: The Montana Board of Regents provides a necessary buffer between the students and the administration and between the students and the legislature.

WHEREAS: House Bill 229, in its form as of January 24, 1995, calls for an amendment to the Montana Constitution which would eliminate the Montana Board of Regents, the Montana Board of Education, and the Office of the Commissioner of Higher Education.

WHEREAS: House Bill 229, in its form as of January 24, 1995, calls for the Montana University System to be administered and governed by a State Advisory Commission under an Executive Branch's Department of Education.

THEREFORE BE IT RESOLVED: That the Associated Students of Montana State University - Bozeman stand firmly in opposition to House Bill 229, as written on January 24, 1995.

BE IT FURTHER RESOLVED: That the Associated Students of Montana State University - Bozeman support the existence of an autonomous Board of Regents.

BE IT FURTHER RESOLVED: That copies of this resolution be made available to the Legislature, the Board of Regents, the Commissioner of Higher Education, and the Montana Associated Students.

Thoughts about HB 229 and the Board of Regents
and Article X, Section 9 of the Montana Constitution

-from Sheila Stearns, Chancellor, Western Montana College of The University
of Montana

HB 229 poses the question, should the people be asked to vote on a
Constitutional Amendment to eliminate the Board of Regents?

I present to you just a few of many reasons why I oppose this bill and urge you
to vote against it:

POLITICAL PRESSURE - The 1972 Constitution established some autonomy
for higher education because its large, powerful constituencies made for very
divisive lobbying among the units. For the last 23 years, the Board of Regents
has successfully minimized the "lone ranger" power plays between colleges
with powerful legislative delegations behind them.

POLITICAL Common Sense - I hear many legislators criticize the Regents for
decisions that are "bad timing", at best. Their timing is not always the best,
politically, but that is because their first concern is what is right for the students
and employees under their jurisdiction, not what is politically correct.

DONATIONS - For the past 23 years, private donations to all units of higher
education have increased, conservatively, ten-fold. I have never met with a
major donor who didn't ask if donations to the university have some insulation
from the legislative or executive branches. In other words, will their gift
simply offset the general fund, or will it truly make a difference in enhancing
quality of education? If the answer changes, fundraising will become far more
difficult.

TRUSTEES - Most colleges and universities have governing boards of trustees
who have fiduciary responsibility, who govern and also advocate for their units.
Higher education in Montana is very efficient in that all its units have only one
board. Just one.

HB 229 would take away the one board with governing authority over higher education. It specializes in our complex issues. We have been well served by the seven individuals appointed by the governor, from different sections of the state, who serve for no remuneration, who share their wisdom and commitment to our efforts. I believe it would be a serious mistake to trade our board for a single agency head, even with an advisory board. We already have advisory boards for almost every program in the university system. We appreciate their work tremendously but they don't have the authority of the Board of Regents to hold our large enterprise together.

DEDICATION - The Boards of Regents of my experience have dedicated at least 30 days a year to studying our budgets, programs, proposals, and above all, student needs. One of the seven Regents is a student, by statute. When tuition or fees are raised, Regents ensure that students have a voice in the process.

DUPLICATION - Most duplication in the university system occurred before the creation of the Board of Regents, in the free-wheeling earlier decades when raw political power or presidential finesse caused the proliferation of programs. Since 1972, addition of any program to any of our units is an extremely difficult process, carefully scrutinized by Regents who do indeed feel highly responsible and accountable to the people of Montana.

MANAGEMENT - Currently the Regents are reviewing many programs for elimination. Their management is generally, in my opinion, unheralded and unappreciated. They don't pay anyone to do public relations for them. If they did, they would be criticized, but it's too bad people don't know the extent to which they stress efficiency and collaboration, with just enough independence for the units to protect and encourage fundraising, economic development, and academic freedom.

OUR SCHOOL BOARD - Think of it this way: The Board of Regents is the only school board for higher education, with its nearly 30,000 students, 6000 employees, and nearly one-half billion dollar budgets (only a portion of which is general fund). Imagine if all the school boards in your counties were dissolved and all authority put in your Mayors' offices or the Governor's office. Your people would rise up in protest. Higher education only has **one** board. **Just one.** Let us keep it, without having to mount an expensive campaign to preserve Article X, Section 9 of the Montana Constitution.

STATEWIDE CAMPAIGN - We believe it is so important to have our own governing board, that if we must, we will use private funds that would otherwise improve the quality of education to take our case to the people of Montana. I have great confidence in the common sense of Montanans, but an educational campaign about a major change in the Montana Constitution is always difficult, expensive, and time-consuming.

ACCOUNTABILITY - Many people underestimate the extent to which the Regents carefully consider the recommendations and preferences of the legislature and the executive. This is partly because of the respect Regents have for these institutions and individuals, and partly because of the power of the purse. The system of checks and balances is solidly in place. The Board of Regents' power is not unbridled. Its units account for their expenditures to legislative audits every two years as well as to careful, thrifty scrutiny by the legislature and the Governor's Budget Office.

EFFICIENCY - The Board of Regents and the Commissioner of Higher Education have creatively and courageously restructured the University System in the past year to achieve greater efficiency and to improve quality and access for students. Benchmarking is helping us find ways to make every office and department in the system more efficient. Since we deliver a college education at a cost per student that is much lower than most other colleges and universities in the country, we must be doing something right in the way of efficiency, because we certainly can point with pride to many high-quality successes in students and programs throughout the Montana University System. Yet this proposal is offered to you, it seems, under the guise of efficiency. Just as it would be more efficient to do away with all your local school boards (or even a few of them), it would not be appreciated by the people of your communities. Higher education asks only to keep its one governing board. The authority of our board is always tempered by its dependence on the legislature for appropriations.

TUITION - Yes, Regents can raise tuition without legislative permission. Tuition is a growing but still small percentage of higher education's total budget. Tuition is never raised without consultation with students, legislators, parents, and other concerned parties. I've never known a Regent who liked raising tuition, or who voted for it without great reluctance. In my years of working with Regents, most of them would rather have a root canal than vote for higher tuition.

BLOOPERS - Finally, I was discussing this issue recently with several legislators who pointed out some of the dumb mistakes that the Board of Regents (or its colleges and universities and their leaders - myself included) have made over the years, including some silly, well-publicized recent events. They are always well-covered in the press.

PUBLIC SERVICE - What about their well-publicized foibles? When I am away from Helena, I spend a lot of time defending BOTH the Legislature and the Regents. Both are complex public governing bodies that work well 90% + of the time in the public interest. When they make mistakes, or one of their members does, it gets a lot of attention. I defend the Legislature, just as I do the Regents: "If only you knew all they accomplish, and how much effort they put in to working together in the interest of the people they serve, you might not be so critical."

IS IT SO BROKE IT NEEDS FIXIN'? The Board of Regents aren't perfect. But would an agency head within the executive branch be perfect or even a significant improvement? I don't think so. Are all your school boards and other governing boards on which you serve perfect? Probably not. But like the other schools in this state, higher education needs a board (**Just one!**) with some independence and governing authority. Let us keep it and not waste time and money on an expensive campaign to keep our "trustees".

ACCREDITATION - We are hearing from our major accrediting agency, the Northwest Commission on Schools and Colleges, that they have serious concerns about colleges and universities not having a governing board. This should be investigated far more carefully before an issue of this magnitude is submitted to a statewide vote.

THANK YOU if you have read this far, regardless of whether you agree with me. I have confidence that our fellow Montanans can understand this point of view and vote for it if you pass HB229. But the cost of our scarce time and dollars for such a campaign, which would first have to be privately raised, would be high and could be avoided. Thank you sincerely for considering my thoughts about this important issue to thousands of us involved in higher education.

Thanks!

Sheila Stearns
Western Mt College

SENATE EDUCATION

EXHIBIT NO. 7DATE 2/3/95

BILL NO.	WHO SELECTS CHIEF EXEC. OFFICER OF HIGHER EDUC. INSTIT.
<u>HB 229</u>	

<u>E</u>	<u>HIGHER EDUC. INSTITUTION</u>	<u>NAME OF GOVERNING BOARD</u>	<u>SOURCE OF GOVERNANCE AUTHORITY</u>	<u>METHOD OF SELECTION</u>	
Alabama	University of Alabama	Board of Trustees	16-47-34, Code of Alabama Art. XIV, Sec. 264, Alabama Const.	Self-perpetuating, i.e., members elect successors	Governing Board
Alaska	University of Alaska	Board of Regents	14.40.170, Alaska Statutes Art. VII, Sec. 3, Alaska Const.	Appointed by Governor	Governing Board
Arizona	University of Arizona	Board of Regents	15-1626, Arizona Revised Statutes Art. II, Sec. 5, Arizona Const.	Appointed by Governor	Governing Board
Arkansas	University of Arkansas	Board of Trustees	6-64-202, Arkansas Code Annotated	Appointed by Governor	Governing Board
California	University of California	Board of Regents	Art. 9, Sec. 9, California Const.	Appointed by Governor	Governing Board
Colorado	University of Colorado	Board of Regents	23-20-112, Colorado Revised Stats.	Elected	Governing Board
Connecticut	University of Connecticut	Board of Trustees	10a-104, General Statutes of CT	12 of 19 appointed by Gov.	Governing Board
Delaware	University of Delaware	Board of Trustees	14-5106, Delaware Code Annotated	8 appointed by Governor 20 elected by Board	Governing Board
Florida	University of Florida	Board of Regents	16 § 240.207 Statutes Annotated	Appointed by Governor	Governing Board
Georgia	University of Georgia	Board of Regents	Art. VIII, Sec. IV, Georgia Const. Title 32-121, Code of Georgia	Appointed by Governor	Governing Board
Hawaii	University of Hawaii	Board of Regents	Chapter 304-4, Hawaii Revised Stats.	Appointed by Governor	Governing Board
Idaho	University of Idaho	Board of Regents	33-2804, Idaho Code	Appointed by Governor	Governing Board
Illinois	University of Illinois	Board of Trustees	110 Illinois, Compiled Stats. Annot. 305/7	Elected	Governing Board
Indiana	Indiana University	Board of Trustees	20-12-23-2, Indiana Statutes Annot.	Appointed by Governor	Governing Board
Iowa	University of Iowa	Board of Regents	Sec. 262.9, Iowa Code Annotated	Appointed by Governor	Governing Board
Kansas	University of Kansas	Board of Regents	76-712, Kansas Statutes Annotated	Appointed by Governor	Governing Board

<u>STATE</u>	<u>HIGHER EDUC. INSTITUTION</u>	<u>NAME OF GOVERNING BOARD</u>	<u>SOURCE OF GOVERNANCE AUTHORITY</u>	<u>METHOD OF SELECTION</u>	<u>WHO SELECTS CHIEF EXEC. OFFICER OF HIGHER EDUC. INSTIT.</u> 1
Kentucky	University of Kentucky	Board of Trustees	164.131, Kentucky Revised Statutes	Appointed by Governor	Governing Board
Louisiana	Louisiana State University	Board of Supervisors	17:3351, Louisiana Revised Statutes	Appointed by Governor	Governing Board
Maine	University of Maine	Board of Trustees	20-A 10952, Maine Rev. Stats. Annot.	Appointed by Governor	Governing Board
Maryland	University of Maryland	Board of Regents	12-104, Annotated Code of Maryland	Appointed by Governor	Governing Board
Massachusetts	University of Massachusetts	Board of Trustees	75-1A, Mass. General Laws Annot.	Appointed by Governor	Governing Board
Michigan	University of Michigan	Board of Regents	390.3 & 390.5, Mich. Compiled Laws Art. 8, Sec. 5, Mich. Const.	Elected	Governing Board
Minnesota	University of Minnesota	Board of Regents	Art. 13, Sec. 3, Minnesota Const.	Appointed by Legislature	Governing Board
Mississippi	University of Mississippi	Board of Trustees	Art. 8, Sec. 213-A, Miss. Const. 37-101-1, Mississippi Code	Appointed by Governor	Governing Board
Missouri	University of Missouri	Board of Curators	172.100, Missouri Revised Stats. Art. IX, Sec. 9(a), Missouri Const.	Appointed by Governor	Governing Board
Montana	University of Montana	Board of Regents	20-25-301, Montana Code Annot. Art. X, Sec. 9(2)(a), Montana Const.	Appointed by Governor	Governing Board
Nebraska	University of Nebraska	Board of Regents	85-106, Revised Nebraska Stats.	Elected	Governing Board
Nevada	University of Nevada	Board of Regents	Art. 11, Sec. 4 Nevada Const. Chapter 296, Nev. Revised Statutes	Elected	Governing Board
New Hampshire	University System of N.H.	Board of Trustees	Chapter 187-A:16, N.H. R.S.A.	11 of 25 appointed by Gov.	Governing Board
New Jersey	Rutgers-The State Univ. of N.J.	Board of Governors	18A:65-25	6 of 11 appointed by Gov.	Governing Board
New Mexico	University of New Mexico	Board of Regents	21-7-3, N.M. Statutes Annot.	Appointed by Governor	Governing Board
New York	State University of New York	Board of Trustees	Book 16, Sec. 207, Education Law, Consolidated Laws of N.Y.	Selected by Legislature	Governing Board
North Carolina	University of North Carolina	Board of Governors	Chapter 116-11, Gen Stats. of N.C.	Selected by Legislature	Governing Board

EXHIBIT 7
 DATE 2-3-95
HB 229

<u>STATE</u>	<u>HIGHER EDUC. INSTITUTION</u>	<u>NAME OF GOVERNING BOARD</u>	<u>SOURCE OF GOVERNANCE AUTHORITY</u>	<u>METHOD OF SELECTION</u>	<u>WHO SELECTS CHIEF EXEC. OFFICER OF HIGHER EDUC. INSTIT.</u>
North Dakota	North Dakota University System	Board of Higher Educ.	15-10-17 N.D. Century Code	Appointed by Governor	Governing Board
Ohio	Ohio State University	Board of Trustees	Chapter 3335, Ohio Rev. Codes	Appointed by Governor	Governing Board
Oklahoma	University of Oklahoma	Board of Regents	Art. 13 § 8, Oklahoma Const. 70 § 3305, OK Stat. Annot.	Appointed by Governor	Governing Board
Oregon	Oregon State System of Higher Education	State Board of Higher Education	Chapter 351, Oregon Rev. Stats.	Appointed by Governor	Governing Board
Pennsylvania	Penn State University / University of Pittsburgh	Board of Trustees	Title 24 § 2541, PA Stats. Annot., CES	Some appointed, some ex-officio, some private nominations	Governing Board
Rhode Island	University of Rhode Island	Board of Governors	16-32-2 & 16-59-4, Gen Laws of R.I.	Appointed by Governor	Governing Board
South Carolina	University of South Carolina	Board of Trustees	59-117-10, Code of Laws of S.C.	Selected by Legislature	Governing Board
South Dakota	South Dakota University System	Board of Regents	Art. XIV, Sec. 3, S.D. Const. 13-49-3, S.D. Codified Laws	Appointed by Governor	Governing Board
Tennessee	University of Tennessee	Board of Trustees	49-9-209, Tenn. Code Annot.	Appointed by Governor	Governing Board
Texas	University of Texas	Board of Regents	65.31, Texas Code Annotated	Appointed by Governor	Governing Board
Utah	University of Utah	Board of Regents	53B-1-103, Utah Code Annotated	Appointed by Governor	Governing Board
Vermont	University of Vermont	Board of Trustees	Title 16, Chapter 75	Selected by Legislature (9) Appointed by Gov. (3)	Governing Board
Virginia	University of Virginia	Board of Visitors	23-76, Code of Virginia	Appointed by Governor	Governing Board
Washington	University of Washington	Board of Regents	28B.20.130, Rev. Code of Wash. Annot.	Appointed by Governor	Governing Board
West Virginia	University of West Virginia	Board of Trustees	18B-2-3, W.Va. Code	Appointed by Governor	Governing Board
Wisconsin	University of Wisconsin	Board of Regents	36.09, Wisc. Stats. Annot.	Appointed by Governor	Governing Board
Wyoming	University of Wyoming	Board of Trustees	Art. 7, Sec. 17, Wy. Const. 21-17-203, Wy. Stats. Annot.	Appointed by Governor	Governing Board

Motion/Vote: SEN. BARRY "SPOOK" STANG MOVED TO TABLE SB 195 AS AMENDED. Motion to table SB 195 as amended PASSED 7-3 by voice vote, with SEN. TOEWS, SEN. EMERSON AND SEN. GAGE voting "No."

EXECUTIVE ACTION ON HOUSE BILL 229

Eddye McClure distributed and explained Amendments HB022901.AEM (EXHIBIT 8).

SEN. WATERMAN asked if this amendment provided for an eight-member commission appointed for one or two years. Eddye McClure concurred, saying the term limits would probably be set by statute in 1997.

Motion: SEN. KEN MESAROS MOVED TO ADOPT AMENDMENTS HB022901.AEM AS PER EXHIBIT 8.

Discussion: SEN. GAGE asked if Board of Regents members would remain on the Board until 2001. SEN. HERTEL said they would, but if a term expired before 2001, the Governor would appoint someone; ultimately, however, all terms would expire by 2001.

SEN. WATERMAN differed by saying this transition language indicates before 2001, there could be three heads of education instead of two, and four boards instead of three.

SEN. JENKINS opined constituents would be irate if HB 229 is passed, they vote to pass the Constitutional Amendment and nothing happens for three years.

SEN. WATERMAN said she was concerned about splitting the Task Force's Recommendation into two bills, because now there was not a seamless system of education. She said she favored tabling HB 229 and dealing with it during the next legislative session in 1997 because the 2001 time frame could still be honored.

SEN. STANG said he favored a delay in dealing with HB 229.

SEN. JENKINS said he thought once a Constitutional Amendment was started, the process had to be completed. Eddye McClure said it could be tabled in committee, but if the committee sent it to the floor, the bill would then have to go to the House.

SEN. TOEWS opined HB 229 is a better bill than when it came to the committee because it takes away the direct line to the Governor.

Vote: MOTION TO ADOPT AMENDMENTS HB022901.AEM PASSED 6-4 on a roll call vote.

SEN. WATERMAN distributed and explained Amendment HB022903.AEM (EXHIBIT 9). She said the amendment conforms HB 229 to HB 228 as

amended by REP. H.S. "SONNY" HANSON, and streamlines the system into one head, i.e. superintendent of all public instruction who would serve as the director of the Department of Education.

Motion/Vote: SEN. MIGNON WATERMAN MOVED TO ADOPT AMENDMENT HB022903.AEM AS PER EXHIBIT 9. Motion FAILED 6-4 by voice vote, with SEN. WATERMAN, SEN. DOHERTY, SEN. STANG AND SEN. FORRESTER voting "Yes."

SEN. WATERMAN distributed and explained Amendments HB022905.AEM (EXHIBIT 10).

Motion: SEN. MIGNON WATERMAN MOVED TO ADOPT AMENDMENTS HB022905.AEM AS PER EXHIBIT 10, BUT INCLUDE "OTHER" ON PAGE 1, LINE 21.

SEN. JENKINS commented he thought of the Sherlock decision but SEN. WATERMAN said that decision did not apply to the university system. She stated this is language for the Board of Regents.

SEN. STANG commented Section 9, lines 18-19 say the duties shall be as assigned by law. They will only be responsible for long-range planning and coordinating values, but the legislature will still have control.

SEN. JENKINS said the Constitution only gives the Board of Education general supervisory powers over schools but the Sherlock decision said the Board of Public Education had Constitutional rulemaking authority.

Vote: MOTION TO ADOPT AMENDMENTS HB022905.AEM FAILED 6-4 on a roll call vote.

Motion/Vote: SEN. MIGNON WATERMAN MOVED HB 229 BE TABLED AS AMENDED. Motion FAILED 7-3 on a roll call vote.

Motion/Vote: SEN. KEN MESAROS MOVED DO PASS FOR HB 229 AS AMENDED. Motion CARRIED 7-3 by voice vote, with SEN. DOHERTY, SEN. WATERMAN, and SEN. STANG voting "No."

SEN. JOHN HERTEL will carry HB 229.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 13, 1995

MR. PRESIDENT:

We, your committee on Education and Cultural Resources having had under consideration HB 229 (third reading copy -- blue), respectfully report that HB 229 be amended as follows and as so amended be concurred in.

Signed: 
Senator Daryl Toews, Chair

That such amendments read:

1. Title, line 8.

Following: second "EDUCATION"

Strike: "ADVISORY"

Following: COMMISSION;

Insert: "PROVIDING TRANSITIONAL INSTRUCTIONS;".

2. Title, line 9.

Following: "PROVIDING"

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

Following: first "DATE"

Strike: "AND AN APPLICABILITY DATE"

3. Page 1, line 14.

Following: "education"

Strike: "advisory"

4. Page 1, line 20.

Following: "education"

Strike: "advisory"

Following: "appointed"

Insert: "by the governor and confirmed by the senate"

5. Page 1, line 21.

Following: "staggered"

Strike: ", 7-year"

Following: "terms"

Strike: "by the governor"

Insert: ", as provided by law"

6. Page 1, lines 21 and 22.

Following: "shall" on line 21

Strike: remainder of line 21 through "education" on line 22

Insert: "have duties assigned by law"

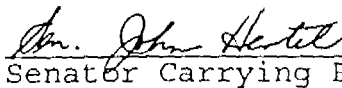
7. Page 2, line 9.

Following: "governor"



Amd. Coord.

Sec. of Senate



Senator Carrying Bill

371622SC.SPV

Strike: ", commissioner of higher education"

8. Page 2, line 12.

Strike: "-- applicability"

9. Page 2, lines 13 and 14.

Following: "approval" on line 13

Strike: remainder of line 13 through "2001" on line 14

10. Page 2, line 15.

Insert: "NEW SECTION. Section 3. Transition. Upon passage and approval, the governor may create a department of education and the state education commission as provided in Article X, section 9. The department and the commission may exercise statutorily assigned duties. The board of regents and the commissioner of higher education shall continue to perform duties that were constitutionally assigned until January 1, 2001. The terms of office and appointments to the board of regents remain in effect until January 1, 2001."

Renumber: subsequent section

11. Page 2, line 20.

Strike: "advisory"

12. Page 2, line 22.

Strike: "advisory"

-END-

MONTANA SENATE
1995 LEGISLATURE
EDUCATION AND CULTURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2/13/95 BILL NO. #B229 NUMBER 2

MOTION: Adopt Amendments proposed by
Rep. A.D. Gannon (HB 022901.4EH)

NAME	AYE	NO
SEN. JOHN HERTEL, VICE CHAIRMAN	✓	
SEN. DELWYN GAGE	✓	
SEN. KEN MASAROS	✓	
SEN. STEVE DOHERTY		✓
SEN. MIGNON WATERMAN		✓
SEN. BARRY "SPOOK" STANG		✓
SEN. LOREN JENKINS	✓	
SEN. GARY FORRESTER		✓
SEN. CASEY EMERSON	✓	
SEN. DARYL TOEWS, CHAIRMAN	✓	

SEN:1995
wp:rlclvote.man
CS-11

EDUCATION AND CULTURAL RESOURCES COMMITTEE
ROLL CALL VOTE

DATE 2/13/95 BILL NO. HB 229 NUMBER 3

MOTION: Adopt Amendments HB022905. AEM

[illegible]

SEN:1995
wp:rlclvote.man
CS-11

DATE 2/13/95 BILL NO. HB 229 NUMBER A
MOTION: HB 229 table as amended

SEN:1995
wp:rlclvote.man
CS-11

Amendments to House Bill No. 229
Third Reading Copy

Requested by Senator Waterman
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
February 7, 1995

1. Page 1, line 18.

Following: "with"

Strike: "a director appointed by the governor"

Insert: "the superintendent of public instruction serving as
director of the department of education"

Amendments to House Bill No. 229
Third Reading Copy

Requested by Representative Hanson
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
February 6, 1995

1. Title, line 8.
Following: second "EDUCATION"
Strike: "ADVISORY"
Following: COMMISSION;
Insert: "PROVIDING TRANSITIONAL INSTRUCTIONS;".
2. Title, line 9.
Following: "PROVIDING"
Strike: "A DELAYED"
Insert: "AN IMMEDIATE"
Following: first "DATE"
Strike: "AND AN APPLICABILITY DATE"
3. Page 1, line 14.
Following: "education"
Strike: "advisory"
4. Page 1, line 20.
Following: "education"
Strike: "advisory"
Following: "appointed"
Insert: "by the governor and confirmed by the senate"
5. Page 1, line 21.
Following: "staggered"
Strike: ", 7-year"
Following: "terms"
Strike: "by the governor"
Insert: ", as provided by law"
6. Page 1, lines 21 and 22.
Following: "shall" on line 21
Strike: remainder of line 21 through "education" on line 22
Insert: "have duties assigned by law"
7. Page 2, line 9.
Following: "governor"
Strike: ", commissioner of higher education"
8. Page 2, line 12.
Strike: "-- applicability"
9. Page 2, lines 13 and 14.
Following: "approval" on line 13

Strike: remainder of line 13 through "2001" on line 14

10. Page 2, line 15.

Insert: "NEW SECTION. . Section 3. Transition. Upon passage and approval, the governor may create a department of education and the state education commission as provided in Article X, section 9. The department and the commission may exercise statutorily assigned duties. The board of regents and the commissioner of higher education shall continue to perform duties that were constitutionally assigned until January 1, 2001. The terms of office and appointments to the board of regents remain in effect until January 1, 2001."

Renumber: subsequent section

11. Page 2, line 20.

Strike: "advisory"

12. Page 2, line 22.

Strike: "advisory"

Amendments to House Bill No. 229
Third Reading Copy

Requested by Senator Waterman
For the Senate Committee on Education and Cultural Resources

Prepared by Eddye McClure
February 13, 1995

1. Page 1, line 21.

Following: "governor."

Insert: "The commission is responsible for long-range planning and
for coordinating and evaluating policies and programs for
the state's educational systems."

2. Page 1, line 24.

Following: "commission."

Insert: "The governor and the superintendent of public
instruction are ex officio non-voting members of the
commission."